

1 **CRIS C. VAUGHAN (SBN 99568)**
2 **VAUGHAN & ASSOCIATES**
3 **3013 Douglas Boulevard, Suite 240**
4 **Roseville, CA 95661**
5 **Telephone: (916) 788-1224**
6 **Facsimile: (916) 788-1159**

7 **Attorney for Plaintiffs**
8 **DANIEL W. FAERFERS and KATJA FAERFERS**

9 **UNITED STATES DISTRICT COURT**
10 **EASTERN DISTRICT OF CALIFORNIA**

11 **DANIEL W. FAERFERS and KATJA**
12 **FAERFERS,**

13 **Plaintiffs,**

14 **v.**

15 **CAVIAR CREATOR, INC., a Nevada**
16 **Corporation, individually and as**
17 **successor to CAVIAR CREATOR, INC.,**
18 **an Oregon Corporation**

19 **Defendants.**

20 **CAVIAR CREATOR, INC., a Nevada**
21 **Corporation,**
22 **Counterclaimant/**
23 **Cross-complainant**

24 **v.**

25 **DANIEL W. FAERFERS, an individual;**
KATJA E. FAERFERS, an individual;
SINCLAIR WILSON, an unknown business
entity;
Counter-Defendants/Cross-Defendants

CASE NO. 2:04-CV-2690 MCE-PAN

APPLICATION TO MODIFY COURT
ORDER SCHEDULING DEPOSITION
OF DANIEL FAERFERS

1 I, Cris, C. Vaughan, declare:

2 1. I am an attorney at law duly admitted to practice before this court.

3 2. I am the attorney of record for plaintiffs and cross-defendants, Daniel W.
4 Faerfers and Katja Faerfers.

5 3. On November 4, 2005 this office filed on behalf of Daniel Faerfers, an Ex-Parte
6 Application to Modify the Court's October 18, 2005 Order (Doc. No. 69) scheduling the
7 deposition of Daniel Faerfers for November 7, 2005. (Doc. No. 72) This application was
8 based upon a Medical Certificate of Illness from a German doctor.

9 4. On November 7, 2005 Caviar Creator filed its response to the Daniel Faerfers
10 Application. (Doc. No. 74) In this response Caviar Creator requested the deposition of
11 Daniel Faerfers to be held on December 7 & 8, 2005. There was no meet and confer
12 among counsel before these dates were requested by Caviar Creator.

13 5. On November 9, 2005 my office filed a reply to Caviar Creators' Response to
14 the Application of Daniel Faerfers (Doc. No. 75) which included my declaration setting
15 forth the trial calendar conflict I had for December 6 & 7, 2005. In the Response of
16 Caviar Creator, counsel for Caviar Creator had indicated she was unavailable on
17 December 9, 2005. Based upon my trial conflicts on December 6 & 7 and upon
18 unavailability of counsel on December 9th, the reply filed by my office requested the
19 deposition of Daniel Faerfers be ordered to take place on December 12 & 13, 2005.

20 6. Following the filing of the Reply of Daniel Faerfers, all counsel met and
21 conferred by telephone on the afternoon of November 9, 2005.

22 7. As a result of the meet and confer by all counsel, the parties agreed that
23 Daniel Faerfers' deposition in Sacramento, California, would commence on December 8,
24 2005 at 9:30 a.m. The parties further agreed that although every effort would be made
25

1 to conclude the deposition at the end of the day of Friday, December 9, 2005, the
2 deposition could continue on Saturday, December 10, 2005 until noon, if necessary.

3 8. The agreement between the parties was confirmed by letter to the Court
4 dated November 9, 2005 from Eileen Diepenbrock, counsel for Caviar Creator. (Doc. No.
5 76)

6 9. The Court's Order scheduling the deposition of Daniel Faerfers for December
7 7 & 8, 2005 in Sacramento, California, was filed and entered on November 10, 2005.
8 (Doc. No. 77) The order is dated November 8, 2005.

9 10. In making this application, Daniel Faerfers acknowledges the admonition in
10 the Court's Order with regards to further requests to modify the taking of the
11 deposition. Daniel Faerfers submits this application based upon the trial calendar
12 conflict of plaintiffs counsel and based upon the agreement of the parties to a revised
13 deposition schedule for the Daniel Faerfers deposition.

14 11. Plaintiff Daniel Faerfers respectfully requests the Court modify its
15 Memorandum and Order dated November 8, 2005 to permit the deposition of Daniel
16 Faerfers to commence in Sacramento, California, on December 8, 2005 at 9:30 a.m.
17 pursuant to the agreement of the parties.

18 I declare under penalty of perjury and under accordance of the laws of the State of
19 California the foregoing is true and correct. Executed this 22nd day of November, 2005 at
20 Roseville, California.

21 /s/Cris C. Vaughan

22 CRIS C. VAUGHAN

23 VAUGHAN & ASSOCIATES

24 Attorney for Plaintiffs/Counterdefendants
25

ORDER

IT IS HEREBY ORDERED, good cause having been shown, that the deposition of Daniel W. Faerfers shall be taken on Thursday, December 8, 2005, Friday, December 9, 2005, and if necessary up to noon (12:00 p.m.) on Saturday, December 10, 2005, at Sacramento, California.

IT IS SO ORDERED

Dated: December 5, 2005

A handwritten signature in blue ink, appearing to read "Morrison C. England, Jr.", is written over a horizontal line.

MORRISON C. ENGLAND, JR.
UNITED STATES DISTRICT JUDGE